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**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND
ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS,
BUSINESS & PROFESSIONAL LICENSING
BOARD OF DENTAL EXAMINERS**

**MINUTES OF MEETING
December 4, 2015**

These draft minutes were prepared by the staff of the Division of Corporations, Business and Professional Licensing. They have not been reviewed or approved by the board.

By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with the provisions of Article 6 of AS 44.62, a scheduled meeting of the Board of Dental Examiners was held December 4, 2015, at 550 W. 7th Ave, Suite 1535, Anchorage, Alaska.

The meeting was called to order by Dr. Thomas Wells at 8:32 a.m.

Wells introduced the board's new member, Dr. Michael Moriarty and thanked Moriarty for serving.

Roll Call

Those present, constituting a quorum of the board, were:

Dr. Thomas Wells, President – Anchorage
Dr. David Nielson – Dentist - Anchorage
Paula Ross – Dental Hygienist - Anchorage
Dr. Paul Silveira – Dentist – Valdez
Dr. Thomas Kovaleski – Dentist - Chugiak
Robyn Chaney- Public Member – Dillingham
Dr. Michael Moriarty – Dentist – Seward
Gail Walden – Dental Hygienist - Wasilla – arrived 8:51 a.m.

Absent:

Dr. Steven Scheller- Dentist - Fairbanks, excused

In attendance from the Division of Corporations, Business & Professional Licensing, Department of Commerce, Community and Economic Development were:

Stacia Erkenbrack, Licensing Examiner – Juneau (telephonically)

Angela Birt, Chief Investigator - Anchorage
Jasmin Bautista, Investigator – Anchorage
Ed Riefle, Investigator – Anchorage
Sara Chambers, Operations Manager - Juneau
Janey Hovenden, Director – Juneau
Martha Hewlett, Administrative Officer II, - Juneau

Agenda Item 1- Agenda

Nielson asked that a quick topic of x-ray inspection be added to the agenda. X-ray inspection was added to New/Old business.

Agenda Item 2- Minutes

The Board reviewed the minutes from the September 4, 2015 board meeting. Correction was made to line 49 to read pedodontist. Silveira asked about Nielson discussing with Logan about practice ownership. Nielson did not recall that he was going to discuss practice ownership with Logan, he thought rather x-ray inspection. It was determined that a meeting with three or more people was considered a sub-committee and would need to be public noticed.

On a motion duly made by Chaney, seconded by Kovaleski and approved unanimously, it was

RESOLVED to approve the minutes of the September 4, 2015 minutes with corrections.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Moriarty, yea - 7 yeas - motion passed.

The board reviewed the minutes from the October 2, 2015 teleconference.

On a motion duly made by Chaney, seconded by Ross and approved unanimously, it was

RESOLVED to approve the minutes of the October 2, 2015 minutes.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Moriarty, yea - 7 yeas - motion passed.

Agenda Item 3- Ethics

Wells discussed ethics and asked if there were any comments or reports to make.

Agenda Item 4- Investigative Report

Wells introduced Jasmin Bautista and Bautista discussed the investigative report that covered August 29, 2015 through November 20, 2015. Bautista stated there were eight files opened, eight closed and a total of four matters that remained open and under investigation. One of the open cases was going before the board for consideration at this meeting. The board had also discussed the matter at a previous board meeting. Bautista asked if the board would like to go into executive session to further discuss the case. Nielson stated the case had not been discussed that he recalled.

On a motion duly made by Chaney, seconded by Ross, and approved unanimously, it was

RESOLVED to go into executive session in accordance with AS 44.62.310(c)(2), for the purpose of discussing case number 2015-00651.

Staff to remain

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Moriarty, yea - 7 yeas - motion passed.

Off record at 8:47 a.m.

On record at 9:10 a.m.

Chief Investigator, Birt stopped by the meeting to say hello. Wells introduced Moriarty to Birt.

Agenda item 5 – Public Comment

There was no one at the meeting for public comment.

Agenda Item 6 – Old/New Business

The Board scheduled the board meetings for 2016. The board changed the February 5, 2016 board meeting to February 26, 2016. Additional board meetings were scheduled for May 13, 2016 and September 23, 2016. The December board meeting will be determined later in the 2016 year.

The board reviewed CE courses for case number 2014-001808.

On a motion duly made by Nielson, seconded by Moriarty, and approved unanimously, it was

RESOLVED to approve the CE coursework for Gary Sawdy.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, abstain - Wells, yea - Kovalski, yea - Walden, yea - Moriarty, yea - 7 yeas - motion passed.

Nielson discussed the publishing of fees & Alaska State insurance law. He mentioned there was a dentist in town who was concerned about a particular office that was advertising prices for procedures like crowns that were contracted with a labor union and did not know if it was legal or not. It was because they negotiated with a union, if you negotiate with a union, you can do whatever you want. The second part of the question was that the advertised discounted prices were for the uninsured, which was less than the normal cost. The opinion was if you were offering a deal with the public, there was not much you can do about it. On the flipside of that is when they signed contracts with the insurance company, they signed the (inaudible) clause that says you cannot charge the insurance company more than your lowest published rate. So basically, if they've signed any other contract with an insurance company, they were basically breaking that contract. Nielson's question was, did the board ever talk to the Department of Insurance to see if they have a problem with that, and if they did, did they do anything about it. And, was it the insurance company's job to police that and is that even in the board's jurisdiction to do anything about. Nielson felt the public should have a level playing field and not be misled. Nielson looked at the Code of Ethics, which the board uses as a guideline, and it was very specific about not doing that sort of thing. However, it was an advisory opinion. Does that mean the board could do an advisory opinion also and stop them from doing this?

Birt stated that the AG had determined that was not unethical because in the Code of Ethics, it was an advisory opinion and not written into law. Because business was becoming more competitive, prices cannot be driven up that high and the board existed to protect the public and the consumer was best served by better pricing and they did not see a problem with that. If the board would like to write an advisory opinion, they had a statute for that, in regards to misleading advertising. If the board interpreted that some type of advertising offering a lower rate to people without insurance and not offering the same rate to insured people was misleading, then the board could put that out there. In order to enforce that, the board would need to put that in statute. The Department of Insurance would not take action unless they received a complaint from the insurance company.

170 Wells stated that the board did not traditionally get involved with fees or
171 procedures. The board's position was to protect the safety of the people.

172
173 Restorative Function applicant, Cynthia Inderrieden was reviewed again. The board
174 had requested logs from her a year ago and was submitted this year. Nielson stated
175 her logs were impressive; the question was, were these military programs
176 equivalent to taking the restorative function WREB test. Walden stated her concern
177 was that the logs ended in 2006, her thought was that she would have submitted
178 something more recent. Kovaleski stated the other question was her didactic ADA
179 approved, since that is what it said in the law. Kovaleski stated it was very clear, it
180 needed to be an ADA approved course or she needed to take the WREB. Kovaleski
181 continued that she could take that information to WREB and see if they would
182 accept her work to take the WREB. Walden had printed the EFDA application and
183 right now the only exception for military training was Washington. Moriarty stated
184 the applicant needed to take this to WREB and see if they would accept it as
185 restorative function training and let her take the WREB. The board agreed
186 unanimously that the applicant should take her information to WREB and see if they
187 would allow her to take the exam. Once she passed the WREB, she could come back
188 through to the board.

189
190 The Exam II vs Credential application process was discussed. Kovaleski explained
191 for those that were not present in 2012 that the legislature made the specialty
192 licenses disappear. The board figured out how to get those that effected licensed by
193 presenting a caveat that those that had a two year program, a specialty program,
194 could use that in lieu of the WREB. Sher Zinn, licensing supervisor, joined the
195 meeting for clarification. Kovaleski stated there was some confusion on when we
196 credentialed people and when we allowed them to show their two year certificate
197 and get licensed by Exam II. Zinn explained that anyone that had been licensed for
198 a particular amount of time would come in by credential in any program that was
199 overseen by our division. If they qualified by credentials, they must apply by
200 credentials. If they apply by exam it was because they had just taken the exam and
201 did not have the qualifications for credentials. That is the way it was across the
202 board for all licensing areas. It was discussed that the drawback to coming in by
203 credential was the interview the applicants must have. Zinn reminded the board
204 that the interview did not need to take place or wait for the board meetings. The
205 interview could happen by one board member interviewing the applicant as long as
206 that interview was recorded. The board had discussed this before, about having
207 those interviews in between board meetings to expedite the licensing process. Then
208 it would go out as a mail ballot with a note from the member that did the interview
209 with the examiner that the applicant passed the interview and that they're ready to
210 be licensed. If the concern was that they were not being licensed quickly enough,

the board did have that avenue. By doing the interview by just the one person that was on the board in between meetings and then having a mail ballot. Kovaleski thanked Zinn for the clarification. Wells asked if the interview had to go through the state and to be recorded, Zinn verified that it did. So, the board member would need to have the examiner present recording the interview.

The examiner asked for clarification on how to proceed with the incoming Mission of Mercy applicants that would be adding additional dates to their courtesy license. The examiner would submit the applications with the additional date application and the new contract to the board for review. Additional fees would not be requested since those dates were in addition to the MOM event and would have been requested on the first courtesy license had the 2nd MOM dates been known.

Nielson discussed x ray inspection and the list of updated x ray inspectors. The list had just been updated. Nielson stated that Bob Burger had retired and needed to be taken off the list. The examiner will contact the inspector to verify if he wanted to be taken off the list. Nielson asked about the new inspector who would only be working in the tribal system. Nielson asked that since the board did not have authority in that jurisdiction, had the board even needed to approve them or why the board needed to improve them. Kovaleski stated that sometimes they liked to moonlight or if they are a commission officer that the State of Alaska license might be the one thing to help them with a promotion or perhaps the inspector would move sometime in the future. Kovaleski also stated that a lot of tribal systems did require State of Alaska licensure. Nielson would get together with Dave Logan to go over the radiological inspection regulations. It was confirmed that meeting with one person for a board activity is considered a meeting and would not require public notice. Three or more was considered a sub-committee and public notice was required.

Off the record 10:05 a.m.

On the record 10:15 a.m.

Wells asked how travel and wall certificates would be handled since the examiner was weathered in from the board meeting. The board would send travel to the examiner and the examiner would forward to the travel desk. Wall certificates would be pouched to the Anchorage office and the examiner would notify Wells regarding signatures once notified from Anchorage office that the certificates had arrived.

Agenda Item 7 – Budget Review

Janey Hovenden, Division Director and Martha Hewlett, Administrative Officer II discussed the FY15 year end and FY16 1st quarter reports. Hewlett discussed the direct, personal, indirect and travel expenditures of both reports. Hewlett explained the difference in the accounting codes since the transition to IRIS, the state's new accounting system. Kovalski asked if the balance carried over from the end of FY 15 to the 1st quarter of FY16. Hewlett confirmed that it did. There were no further questions. The board thanked Hewlett and Hovenden and disconnected the call.

Off the record 11:10 a.m.

On the record 12:31 p.m.

Agenda Item 8 – Miscellaneous Correspondence

The board discussed derma fillers as a follow up question to dental providers providing cosmetic Botox to consumers. The board did not keep a check list of what providers could and could not do. If a problem arised, the board would follow up if a complaint was made.

Moriarty asked about a CE course that had been approved by ADS but did not sponsor the class when it was presented elsewhere. He would send the examiner the information to submit for the board for review.

The board reviewed correspondence for their informational purposes only. The board reviewed correspondence regarding foreign CE courses. It was suggested that if anyone took the courses, that they had additional CE courses since these did not fall under any of the approved academies or associations.

Agenda Item 8 – Personal Interviews for Applicants by Credentials

The board welcomed Dr. Peter Emmons to the Board meeting and explained the interview process. Dr. Emmons appeared telephonically. The Board asked the standard interview questions.

On a motion duly made by Kovalski, seconded by Walden, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. Peter Emmons.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Walden, yea - Moriarty, yea - 8 yeas - motion passed.

The board welcomed Dr. John Etter to the Board meeting and explained the interview process. Dr. Etter appeared telephonically. The Board asked the standard interview questions.

On a motion duly made by Wells, seconded by Chaney, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. John Etter.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, abstain - Walden, yea - Moriarty, yea - 7 yeas - motion passed.

The board welcomed Dr. Rachael Hogan to the Board meeting and explained the interview process. Dr. Hogan appeared telephonically. The Board asked the standard interview questions.

On a motion duly made by Ross, seconded by Moriarty, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. Rachael Hogan.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Walden, yea - Moriarty, yea - 8 yeas - motion passed.

The board welcomed Dr. Mark Turner to the Board meeting and explained the interview process. Dr. Turner appeared telephonically. The Board asked the standard interview questions and Dr. Turner volunteered explanations to the yes answers on his application for licensure.

On a motion duly made by Nielson, seconded by Silveira, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. Mark Turner.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Walden, yea - Moriarty, yea - 8 yeas - motion passed.

The board welcomed Dr. Ryan Baker to the Board meeting and explained the interview process. Dr. Baker appeared telephonically. The Board asked the standard interview questions.

On a motion duly made by Walden, seconded by Chaney, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. Ryan Baker

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Walden, yea - Moriarty, yea - 8 yeas - motion passed.

The board welcomed Dr. Tyler Williams to the Board meeting and explained the interview process. Dr. Williams appeared telephonically. The Board asked the standard interview questions.

On a motion duly made by Chaney, seconded by Kovaleski, and approved unanimously, it was

RESOLVED to approve the application for a dental license for Dr. Tyler Williams.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Walden, yea - Moriarty, yea - 8 yeas - motion passed.

Moriarty stepped out 1:10 p.m.

Moriarty returned 1:15 p.m.

The board welcomed Dr. Gabor Klade to the Board meeting and Wells explained the interview process. Dr. Klade appeared telephonically. The Board asked the standard interview questions along with additional questions for clarification on some responses. Dr. Klade answered "no" to having been subject to disciplinary proceedings or actions. Nielson asked if Klade would consider going before the Washington State Dental Board of Quality Assurance Commission as a type of peer review proceeding. Klade stated he was not sure what Nielson was asking and asked if Nielson meant would Klade go before the Washington Dental Board Quality Assurance Commission? Nielson responded, no, that the fact that he had to go

373 before the Washington State Dental Quality Assurance Commission, when that was
374 going on, would he consider that a peer review type of proceeding. Klade
375 responded, yes, I believe so. He continued that he was not 100% clear of the
376 question. Nielson asked Klade if he agreed that it could be considered a peer review.
377 Nielson stated he had not personally been through that type of proceeding but that
378 it sounded like peer review and he just wanted to know what Klade thought about
379 that because he had answered no to that question. Klade responded, oh, question
380 #2, yes it was a peer review, and I do believe so, yes. Moriarty asked if Klade had
381 ever been under investigation for a complaint relating to dental practice. Klade
382 responded, dental malpractice, no. He continued that he had changed his answer to
383 question #4, that he had two malpractice payments about 1988 and 1995.
384 Kovaleski asked if Klade had ever been subject to a report from the National
385 Practitioner Data Bank or the American Association Dental Boards. Klade asked, is it
386 "ever" then, he was in the Data Bank for two reasons, a long time ago, but that he
387 currently had nothing against him, had a current license and had never lost a
388 license. Wells asked if there was anything he would like to add to support his
389 application. Klade responded, only that he had been practicing for close to 30 years,
390 and he does feel that he was practicing good dentistry. He had dental friends that he
391 worked on and he never harmed the public in anyway. He added that he had a large
392 patient base and had a lot of requests to be seen. Moriarty asked for clarification
393 regarding his application that said he had been practicing since 1986 at Gentle
394 Dental Care in IL. Klade confirmed he had started his career at Gentle Dental in
395 1986. Moriarty stated that his records show he did not get a license until January of
396 1987, and was wondering how that was possible. Klade asked if the question was
397 how he had a license from 1987 to 1994 in Illinois. Moriarty answered, no, he was
398 wondering how he practiced dentistry in 1986 when it said his license didn't come
399 through until 1987. Klade looked at his application and stated he graduated in 1986
400 and received his license right away and thought there may have been a clerical
401 error. Klade confirmed he started work with Gentle Dental in August of 1986.
402 Moriarty stated he was looking at something from Illinois Division of Professional
403 Regulations that showed he was licensed on 1/2/1987. Klade stated he may have
404 misquoted 8/86 from 1/87 and apologized. He stated he could look that up for the
405 Board. Nielson stated he had looked through the dental references and that most of
406 them were from Alaska and asked if Klade had other dentists he worked with in
407 Washington that could send a reference for him. Klade stated he had a lot of them
408 and also from Chicago that he had practiced with at Gentle Dental for many, many
409 years. Nielson asked if he could provide those names. Klade responded, absolutely,
410 how many were they thinking about. Nielson answered two or three. Klade
411 responded, perfect, he could certainly do that. Wells thanked Klade for his time and
412 that the board would take his application and interview under advisement. Klade
413 thanked the board for their time.

On a motion duly made by Chaney, seconded by Ross, and approved unanimously, it was

RESOLVED to go into executive session in accordance with AS 44.62.310(c)(2), for the purpose of discussing the application of case #2015-000651.

Roll call- Nielson, yea - Ross, yea - Chaney, yea - Silveira, yea - Wells, yea - Kovaleski, yea - Walden, yea - Moriarty, yea - 8 yeas - motion passed.

Off record 1:26 p.m.

On record 1:54 p.m.

On a motion duly made by Nielson, seconded by Kovaleski, it was

RESOLVED to approve the application for Dr. Gabor Klade.

Roll call- Nielson, nay - Ross, nay - Chaney, nay - Silveira, nay - Wells, nay - Kovaleski, nay - Walden, nay - Moriarty, nay - 8 nays - motion failed.

Motion did not pass. The board based denial of licensure by credential for Dr. Gabor Klade by the authority of Regulation 12 AAC 28.910. (c) the board may deny an application for a dental license for the same reasons that the board may impose disciplinary sanctions upon a licensee under AS 08.36.315. Grounds for discipline, suspension or revocation of license. (1) Used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license.

The board based denial on the grounds that there were multiple incidents that Dr. Klade was deceitful or misrepresented information to obtain a license, specifically Question 2 on the State of Alaska license application, which asks "Have you had a professional license denied, revoked, suspended, or otherwise restricted, conditioned, or limited or have you surrendered a professional license, been fined, placed on probation, reprimanded, disciplined, or entered into a settlement with a licensing authority in connection with a professional license you have held in any jurisdiction including Alaska and including that of any military authorities or is any such action pending?" Dr. Klade answered "no." National Practitioner Databank (NPDB) and Professional Background Information Services (PBIS) reports revealed a "Stipulation to Informal Disposition: signed by Dr. Klade on August 2, 1997. Question 4 of the application, "Have you ever been the subject of a report from the National Practitioner Data Bank of the American Association of Dental Boards Clearinghouse for Board Actions that relates to criminal or fraudulent activity, or dental malpractice?" Dr. Klade answered, "no". The NPBD revealed a "Stipulation to

Informal Disposition signed by Dr. Klade on August 2, 1997, and two insurance settlements, dated 6/12/2001 and 7/30/1992. Question 12 of the PBIS application and report, Dr. Klade did not list to PBIS that he had a failed NERB exam. Questions 15 and 17 of PBIS report reflect a discrepancy between when he began practicing, in 1986 and date he was licensed, 1/2/1987. Question 23 of PBIS, "Has your license ever been revoked, suspended, reprimanded, fined or disciplined. Dr. Klade answered "no". Question 24 of PBIS, "Have you ever been subject to peer review", Dr. Klade answered "no". Additional misrepresentation during the interview process included discrepancy in licensure at the beginning of his practicing in the early part of his career. Also, have you ever been the subject of a disciplinary or peer review proceeding, Klade answered "no" to that question. When asked if he went before the Washington State Dental Quality Assurance Commission, he originally said "no" and then after questioning admitted yes, he did consider that a peer review proceeding.

Chair called for break at 1:58 p.m.
Returned 2:08 p.m.

Agenda Item 9 - Regulations

The board reviewed the anesthetic regulations with suggestions from the Department of Law. The first comment was the term moderate sedation and that it was not a defined term. Walden stated the definitions were straight out of AALMS. The board reviewed the regulations draft and Walden would make suggested changes. When completed Walden would email to examiner, who would distribute to the rest of board for review or suggestions before returning to the regulations specialist. It was determined there would be no cost involved to private, state or other agencies. The board is hoping to have public comment before or coinciding with the next board meeting in February.

Ed Riefle and Bautista from investigations returned to discuss full and partial board review regarding investigations. Investigations tries not to present full board review to prevent tainting of the board. Full board review is presented only to take an action or for interview for licensure so as to not taint the board.

Agenda item 11- Office Business

Wall certificates would be pouched to Anchorage for signature. Nielson would sign for Wells and Ross would sign for Chaney.

Meeting adjourned 4:23 p.m.

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Respectfully submitted:

Stacia Erkenbrack
Licensing Examiner

Approved:

Thomas Wells, DDS, President

Date:_____